IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 317 of 1992

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH
and
Hon'ble MR.JUSTICE K.A.PUJ

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

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COMMISSIONER OF INCOME TAX

Versus

BORON INVESTMENT CO.,

Appearance:

1. INCOME TAX REFERENCE No. 317 of 1992

MR MANISH R BHATT for Petitioner No. 1

SERVED BY RPAD - (N) for Respondent No. 1

CORAM : MR.JUSTICE M.S.SHAH
and
MR.JUSTICE K.A.PUJ

Date of decision: 17/07/2002

ORAL JUDGEMENT

(Per : MR.JUSTICE M.S.SHAH)

In this reference at the instance of the revenue, the following question is referred for our opinion in respect of assessment year 1983-84:-

"Whether, the Tribunal is right in law and on facts in holding that interest u/s.215 should be charged after giving credit for T.D.S. which was not actually deducted and paid in the next year?"

2. We have heard Mr Manish R Bhatt, learned Standing Counsel for the applicant- revenue and Mr RK Patel, learned counsel for the respondent - assessee.

3. Our attention is invited to the decision of this Court in CIT vs. Ranoli Investment P. Ltd. (1999) 235 ITR 433 wherein this Court considered the same question and answered it in favour of the assessee.

Following the aforesaid decision, our answer to the question referred to us is in the affirmative i.e. in favour of the assessee and against the revenue.

4. The Reference accordingly stands disposed of with no order as to costs.

(M.S. Shah,J) (K.A. Puj,J)

zgs/-